

Remarks

Claims 1 And 4-9 Are Patentable Over U.S. Patent No. 4,638,793 Of Therkorn.

Claims 1 and 4-9 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,638,793 of Therkorn.

The Therkorn patent describes a traction table which includes three carriages (34, 44 and 36) that are mounted so as to slide along the frame of support table 14 independently of each other. Calf support 30 includes fixed calf support board 68 and is attached to slide carriage 34, and hydraulic cylinder 50 is provided to move slide carriage 34 with respect to the support table. Back rest 32 is attached to slide carriage 36, and hydraulic cylinder 86 is provided to move slide carriage 36 with respect to the support table. Between slide carriage 34 and slide carriage 36 is located slide carriage 44 which "serves as support surface for the seat region" (as shown in Figure 2). Carriage 44 can be fixed with respect to support table 14 at any of three positions indicated by pin holes 48.

The Office Action states that "[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Therkorn such that attaching the two sections of the carriage to make one section, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art." However, as the Federal Circuit stated in *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, a prior art reference must be considered in its entirety, including portions that would lead away from the claimed invention. 721 F.2d 1540 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). Furthermore, as the Supreme Court affirmed in *KSR International Co. v. Teleflex Inc.*, the Patent

and Trademark Office must still make out a prima facie case of obviousness, using the three-prong *Graham* test. 127 S. Ct. 1730 (2007). As stated in the M.P.E.P. at §2142, et seq., the Examiner must provide evidence which as a whole shows that the determination of obviousness is more probable than not. However, the proposed modification cannot render the prior art unsatisfactory for its intended purpose (M.P.E.P. §2143.01-V), or change the principle of its operation (M.P.E.P. §2143.01-VI). Second, there must be a reasonable expectation of success (M.P.E.P. §2143.02). Third, the prior art reference (or references when combined) must teach or suggest all of the claim limitations (M.P.E.P. §2143.03). Applicants suggest that the modification of the teachings of the Therkorn reference suggested by the Office Action does not make out such a prima facie case.

The Therkorn table includes three carriages, each of which moves independently of the others along the support table. Middle carriage 44, which "serves as support surface for the seat region", can move with respect to the support table between three positions indicated by pin holes 48. In use, the patient is placed on the table and carriage 44 is moved to one of the three positions, where it is fixed into position on the support table by inserting a pin in the appropriate pin hole. Carriage 32 is moved to support the patient's back as shown in Figure 1 and carriage 34 is moved to support his calves. The feet of the patient are then attached to the calf support board on carriage 34 and the support table is rotated as shown in Figure 1 so that the patient's head is in a downward position. The relative positions of carriage 32 and carriage 34 on the support table can be adjusted independently of each other (and independently of carriage 44) by means of the hydraulic cylinders to provide desired traction forces without imposing unnecessary stresses on the patient's neck. If any two of adjacent carriages 32 and 44 or 44 and 34 were

joined together, the Therkorn table would not operate for its intended purpose or according to its recited principles of operation. Furthermore, as appreciated by the Office Action, the Therkorn table does not have *a carriage comprising two sections that are pivotally attached to each other, each of which is adapted to support at least a portion of the body of a patient*, as is required by Applicant's claims 1-9. When considered in its entirety, including portions that would lead away from the claimed invention, the Therkorn reference does not support the §103(a) rejection of claims 1 and 4-9. Therefore, Applicant requests that this rejection of his claims 1 and 4-9 be withdrawn, and that claims 1 and 4-9 be allowed.

Applicant respectfully submits that all of his claims are patentable over the cited references.

Applicant requests, therefore, that the §103(a) rejection of claims 1 and 4-9 be withdrawn, and that claims 1-9 be allowed in addition to the previously allowed claims 10-20. If the Examiner has any questions about this Response, she is invited to call Applicant's attorney at the telephone number set out below.

Respectfully submitted,



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